
Finance Committee

HB 1509

Brief Description: Clarifying that the gross wages and benefits of on-site property managers are exempt from the business and occupation taxation of property management companies.

Sponsors: Representatives Pettigrew, Orcutt, O'Brien, McCune, Ericks, Warnick, Alexander, Simpson, Fromhold, P. Sullivan, Morris, Ahern, Kirby, Wood, Buri, Crouse, Kenney, Kristiansen, Ormsby and Dunn.

Brief Summary of Bill

- Expands the business and occupation tax exemption allowed for compensation of on-site property management workers to include on-site employees working for multiple property owners.

Hearing Date: 2/13/07

Staff: Rick Peterson (786-7150).

Background:

The business and occupation (B&O) tax is imposed on the gross receipts of business activities without any deduction for the costs of doing business. However, a business that acts as an agent for another business is not liable for B&O tax on amounts that merely "pass through" the agent as reimbursement for expenses incurred by the agent on behalf of the agent's client. For example, an attorney might pay court costs on behalf of a client. When the attorney is reimbursed for those costs by the client, the attorney is not liable for B&O tax on the reimbursements. The attorney is only liable for B&O tax on amounts charged as fees for the attorney's services.

When a business employs workers on behalf of a client, advances and reimbursement for payments to the workers are subject to B&O tax if the workers are considered employees of the business. The workers are considered employees of the person who has control over them. This is determined by who decides on the hiring and firing the worker; the duration of employment; the rate, amount, and other aspects of compensation; the worker's job assignments and instructions; and other factors.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Property owners often hire property management companies to manage their real property. Frequently, the property management companies also manage the personnel who perform the necessary services at the property location. The property owners may pay the on-site personnel through the property management company.

Under legislation adopted in 1998, a property management company is not taxable on amounts they receive for and pay to an on-site employee under the following: (a) the employee works primarily at the owner's property; (b) the employee's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and (c) under the property management agreement the employee's compensation is the ultimate obligation of the property owner and not the property manager, and that all actions, including hiring, firing, compensation, and conditions of employment, are subject to the approval of the property owner.

In October 2006, the Department of Revenue issued an excise tax advisory clarifying that an on-site employee may work at multiple properties owned by different owners, but the exemption is only available if a majority (more than 50%) of the services are performed for a single owner and the exemption only applies only to that single owner's share of the on-site employee's wages and benefits.

Summary of Bill:

The B&O tax exemption allowed to property managers for payments received for compensation of on-site employees is expanded by eliminating the requirement that the on-site employee work primarily at a single property owner's property.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.